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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,616	12/30/2003	Harrison L. Buchanan JR.	ITDE-PNV102US	7493
23122	7590	10/19/2004	EXAMINER	
RATNERPRESTIA P O BOX 980 VALLEY FORGE, PA 19482-0980			LINDSEY, RODNEY M	
			ART UNIT	PAPER NUMBER
			3765	

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/748,616

Applicant(s)

BUCHANAN, HARRISON L.

Examiner

Rodney M. Lindsey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) 1-13, 15-20 and 23-29 is/are rejected.
- 7) ☒ Claim(s) 14, 21 and 22 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/30/3, 6/7/4</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the snap fastener as set forth in claim 2, the pads coupled together as set forth in claim 4 and the webbing material as set forth in claim 5 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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3. Claim 27 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 27 "said padding" has no antecedent basis.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 3-5, 10-13, 15-20 and 25-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Kastendieck et al. With respect to claim 1 note frame assembly 16 in Figure 5 with forehead padding 177 and cheek padding 179. With respect to claim 3 note column 6, lines 32-46. With respect to claim 4 note that the pads are coupled together by the frame assembly 16. With respect to claim 5 the frame assembly defines a webbing material as claimed. With respect to claim 10 note frame assembly 16 and pad assembly 152 of material equivalent to netting material as claimed. With respect to claim 11 note the strap 142. With respect to claim 12 note frame assembly 16 and straps 120, 142 inherently configured to function with snap fasteners. With respect to claim 13 note vertical strap 126, upper side strap 122, 124 and lower side strap 142. With respect to claim 15 note the strap 142 coupled to the frame assembly and chincup assembly. With respect to claims 16 and 17 the details of the unclaimed chincup assembly are not seen to set forth any structure of the claimed head harness not taught by Kastendieck et al. With respect to claim 18 note the buckle mechanisms 130, 150. With respect to claims 19 and 20 note buckle 166. With respect to claims 25 and 28 note frame assembly 16, mounting

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assembly 50 and end portions as at 175. With respect to claims 26 and 27 note the center portion padding 177 and the end portion padding 179.

6. Claims 7-9, 25, 28 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Aitchison. With respect to claim 7 note the frame assembly with the frame members 8, 10, 13 and hinge 9. With respect to claim 8 note three frame members 8, 10, 10 and two hinges 9, 9. With respect to claim 9 note mounting assembly b'. With respect to claims 25 and 28 note frame assembly 8, 10, 13, 17, mounting assembly b' and the end portions at 17. With respect to claim 29 note the hinges at 9, 9.

7. Claims 23 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Mattes '610. Note frame assembly at 10 and protective crown pad 26 coupled to the frame assembly. With respect to claim 24 note the use of vinyl/nitrile foam rubber composite for the protective pad 18.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kastendieck et al. in view of Dobbie et al. Kastendieck et al. do not teach the use of snap fasteners to connect the frame assembly and pads. Dobbie et al. (see column 6, line 56) teach the use of snap fasteners to couple a frame assembly and pads. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the head harness of Kastendieck et al. with

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the snap fasteners of Dobbie et al. to achieve the advantage of detachably inter-engaging the frame assembly and pads to permit replacement of the pads.

10. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kastendieck et al. in view of Turner. Kastendieck et al. teaches separating the pads 177 and 179 but not necessarily to accommodate eyewear. Turner teaches old to separate padding sections as about recesses 19, 20 to accommodate eyewear. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide that the space between pads 177 and 179 of Kastendieck et al accommodate eyewear in the manner of Turner to achieve the advantage of permitting the wearing of eyewear.

Allowable Subject Matter

11. Claims 14, 21 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

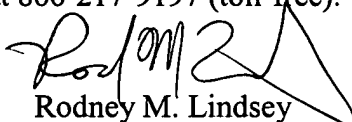
12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note particularly, the frame and pad arrangements of Mattes '054, Dor '204, Pniel, Dor '678, Dor '464, Docking et al. and Mattes '578, the quick release 100 of Morgan et al., the hinged frame of Clarke et al., the strap pads of Barthold et al. and Drager, the chincup of Thomanek, the straps of Goodyear, Green, Malcom and Teague, and the snaps of the pads of Marietta et al.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney M. Lindsey whose telephone number is (703) 305-7818. The examiner can normally be reached on M-F (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on (703) 305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Rodney M. Lindsey
Primary Examiner
Art Unit 3765

rml